

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN ASSEMBLY MAY 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1488

Introduced by Assembly Member Bates

*(Coauthors: Assembly Members Cox, Daucher, Garcia, La Suer,
Maldonado, Pacheco, and Strickland)*

(Coauthors: Senators Alpert and Oller)

February 21, 2003

An act to amend Section 1270.1 of the Penal Code, relating to domestic violence protective orders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1488, as amended, Bates. Domestic violence protective orders.

Existing law provides that before any person who has been arrested for commission of certain specified crimes is released on bail in an amount other than that specified in the schedule of bail for the offense or, is released on his or her own recognizance, a hearing shall be held at which the court shall consider certain enumerated factors including the potential danger the detained person poses to other persons. If the judge or magistrate sets bail in an amount other than that specified in the schedule of bail for the offense, he or she shall state his or her reasons for doing so in the record.

This bill would add violation of a domestic violence protective order if the detained person made threats to kill *or harm*, engaged in violence against, or visited the residence or workplace; of, the protected party to the list of crimes, the commission of which require that a hearing

must be held before release on bail in an amount other than that specified in the schedule of bail for the offense or on one's own recognizance.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1270.1 of the Penal Code is amended to
2 read:

3 1270.1. (a) Before any person who is arrested for any of the
4 following crimes may be released on bail in an amount that is either
5 more or less than the amount contained in the schedule of bail for
6 the offense, or may be released on his or her own recognizance, a
7 hearing shall be held in open court before the magistrate or judge:

8 (1) A serious felony, as defined in subdivision (c) of Section
9 1192.7, or a violent felony, as defined in subdivision (c) of Section
10 667.5, but not including a violation of subdivision (a) of Section
11 460 (residential burglary).

12 (2) A violation of Section 136.1 where punishment is imposed
13 pursuant to subdivision (c) of Section 136.1, 262, 273.5, 422
14 where the offense is punished as a felony, or 646.9.

15 (3) A violation of paragraph (1) of subdivision (e) of Section
16 243.

17 (4) A violation of Section 273.6 if the detained person made
18 threats to kill *or harm*, has engaged in violence against, or has gone
19 to the residence or workplace of, the protected party.

20 (b) The prosecuting attorney and defense attorney shall be
21 given a two court-day written notice and an opportunity to be heard
22 on the matter. If the detained person does not have counsel, the
23 court shall appoint counsel for purposes of this section only. The
24 hearing required by this section shall be held within the time period
25 prescribed in Section 825.

26 (c) At the hearing, the court shall consider evidence of past
27 court appearances of the detained person, the maximum potential
28 sentence that could be imposed, and the danger that may be posed
29 to other persons if the detained person is released. In making the
30 determination whether to release the detained person on his or her
31 own recognizance, the court shall consider the potential danger to
32 other persons, including threats that have been made by the



1 detained person and any past acts of violence. The court shall also
2 consider any evidence offered by the detained person regarding his
3 or her ties to the community and his or her ability to post bond.
4 (d) If the judge or magistrate sets the bail in an amount that is
5 either more or less than the amount contained in the schedule of
6 bail for the offense, the judge or magistrate shall state the reasons
7 for that decision and shall address the issue of threats made against
8 the victim or witness, if they were made, in the record. This
9 statement shall be included in the record.

O

